IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Rev. No.1205 of 2003
Date of Decision:- 28.02.2007

Nardeep Singh ....Petitioner(s)
through
Mr.Manoj Bajaj, Advocate

vs.

State of Haryana ....Respondent(s)
through
Mr.R.D.Sharma, DAG, Haryana.

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CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

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1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

SURYA KANT, J.

This revision petition is directed against the order dated 9.4.2003 passed by the learned Special Judge, Rewari whereby charges were framed against the petitioner under Section 7/13 of the Prevention of Corruption Act, 1988 (for the sake of brevity, 'the Act').

It may be stated here that as per the allegations contained in F.I.R.No.51 dated 9.12.2002, the petitioner, at the relevant time, was posted as Sub Divisional Officer in the Electricity Board at Rewari. He asked the complainant to pay a sum of Rs.30,000/- to Sat Narain, Foreman, for the purpose of release of electricity connection in his favour. When the complainant met the said Foreman, he told him that the amount of Rs.30,000/- which he was asked by the S.D.O. (the petitioner) to pay, was as a bribe for release of the power connection. It is further alleged that the said amount of Rs.30,000/- was obtained by the petitioner and his co-accused from the complainant.

Pertinently, the complainant made a specific note in his complaint that the security amount for the tubewell connection to the tune of Rs.20,000/- had been deposited by him separately in addition to a sum of Rs.2500/- paid by him for the cable connection and meter charges.

Under Section 7 and similarly under Section 13 (1)(a) of the Act, if a public servant accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person any gratification whatsoever, other than legal remuneration, as a motive or reward for doing an official act, it amounts to committing an osffence of "gratification" and of "criminal misconduct" by him.

It is not denied that after investigation, the Investigating Agency found the allegations to be correct and has submitted a report under Section 173 Cr.P.C. against the petitioner and his co-accused.

It is well settled that at the time of framing of charges, the Court is required to form a *prima facie* opinion only . The detailed reference to the material brought on record by the prosecution along with the charge-sheet is neither desirable nor expedient, as it can be taken as pre-emptory formation of views by the Court. The Court, however, is to ensure that no public servant should be persecuted, even when no *prima facie* material is on record.

The allegations against the petitioner, in the very nature of things where the complainant had already deposited the legal remunerations, *prima facie,* fulfill the ingredients of the offence attributed to him, therefore, no exception can be made to the impugned order whereby the petitioner along with his co-accused has been charge-sheeted under Section 7 and 13 of the Act.

At this stage, it may also be noticed that while issuing notice to the State, this Court vide an interim order dated May 27, 2003, had stayed pronouncement of the final judgment.

During the interregnum, the prosecution has already led its evidence. The case is now fixed on 15.3.2007 for the statement of the petitioner and his co-accused under Section 313 Cr.P.C.

Learned counsel for the petitioner, however, vehemently contends that the charges have been framed against the petitioner in a mechanical manner and without reference to any material on record. Reliance has been placed by him on the two judgments of the Hon'ble Supreme Court in the cases of (i) **Union of India** vs. **Prafulla Kumar Samal and another**, AIR 1979 Supreme Court 366 and (ii) **Dilawar Balu Kurane** vs. **State of Maharashtra,** (2002) 2 Supreme Court Cases 135.

After hearing learned counsel for the parties, I am of the considered view that merely because the learned Special Judge did not refer to the material which the prosecution has placed on record along with the charge-sheet, it does not mean that the charges have been framed against the petitioner in a mechanical manner. Suffice it to say that in the backdrop of the nature and gravity of the allegations, the trial is inevitable.

Consequently, I do not find any merit in this petition which is accordingly dismissed.

February 28, 2007 **(SURYA KANT)**
poonam **JUDGE**